IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY SIXTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 4638 of 1997

Between:

A.Devender Kumar, s/o.late A.Hiralal, Temporary Sub-Staff (u/o of termination, Divisional Office, LIC of India, Lakhpath Building, S.D.Road,Secunderabad.
R/o. H.No. 14-10-372, Lower Dhoolpet, Hyderabad.

..... PETITIONER

AND

1. The Senior Divisional Manager, Life Insurance Corporation of India, Divisional Office, Lakhpath Building, S.D.Road, Secunderabad.
2. The Manager (P&IR), Life Insurance Corporation of India, Divisional Office, Lakhpath Building, S.D.Road, Secunderabad.

…..RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to direct the respondents herein to retain and continue the petitioner herein in service as temporary Sub-staff by setting aside the impugned proceedings contained in No.P&IR, dated 01-03-1997, issued by respondent No.2, herein as bad, arbitrary, illegal, discriminatory, irrational, illogical, violative of the principles of natural justice and violative of Articles 14, 16, 21 and 311(2) of the Constitution of India, by the issuance of Writ, Order or Direction essentially in the nature of Writ of Mandamus.

Counsel for the Petitioner:MR.J.SUDHEER

Counsel for the Respondents: MR.M.V.SURESH

The Court made the following :

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O R D E R:

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Heard the learned counsel for the petitioner and the learned standing counsel appearing on behalf of the respondent-Corporation.

The petitioner, who is claiming to be appointed as a temporary sub-staff (peon), filed this writ petition, *inter alia,* seeking a writ of Mandamus to set aside the impugned proceedings dated 01-03-1997, wherein his services were terminated.

The case of the petitioner is that though he has been working all along as a temporary sub-staff (peon), suddenly under the impugned order his services were terminated without giving notice and opportunity to him. Hence, the writ petition.

In the counter-affidavit filed by the respondent-Corporation, it is stated that having regard to the incident which had occurred in the premises and admission made by the petitioner himself, the respondents have taken a decision to terminate the services of the petitioner and accordingly, the impugned orders were issued.

Considering the submissions made on either side and on perusal of the material on record, the question that falls for consideration is whether the impugned order of termination is valid.

Before going into the said question, it is to be noted that the impugned order dated 01-03-1997 reads as follows:

> "*Please refer to our letters dated 15-06-1995 and 19-09-1995 appointing you as Temporary Sub-Staff in our Divisional Office, Secunderabad, and it has been decided by the Competent Authority to terminate your services as Temporary Sub-staff in terms of the Para 6 (six) of the above appointment letter.*
>
> *Accordingly your services are terminated at the close of Office hours on 1st March, 1997.*"

On the face of it, there is no allegation, much less any reason for termination of the services of the petitioner. Admittedly, the petitioner was not given any prior notice, much less any enquiry was conducted. However, for the first time in the counter-affidavit, it is specifically averred that the petitioner, on being questioned by the watchman on duty, admitted the guilt of attempting to steal a cycle and a statement dated 26-02-1997 to that effect was made. On the basis of the clear admission of the petitioner, the matter was considered by the competent authority and a decision was taken to terminate his services. Accordingly, the impugned order dated 01-03-1997 was issued.

In view of the facts and circumstances of the case, the respondents are not justified in issuing the impugned order without giving notice and opportunity to the petitioner. Even if the allegations as mentioned against the petitioner are serious, the respondents cannot make imputation against him. A regular enquiry has to be conducted by giving proper notice and opportunity to the petitioner. Without doing so, it is not permissible for the respondents to pass the impugned order. Further, the impugned order does not disclose any reasons. Having regard to the same, the impugned proceedings are totally vitiated.

Accordingly the proceedings dated 01-03-1997 are hereby set aside and the writ petition is allowed. However, it is open for the respondents to take any action, in accordance with law, after giving notice and opportunity to the petitioner. No costs.

(**B. PRAKASH RAO, J**)

Date: 26-11-2004

ghn

The Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Friday, the twenty sixth day of November, Two thousand and Four.

To

1. The Senior Divisional Manager, Life Insurance Corporation of India, Divisional Office, Lakhpath Building, S.D.Road, Secunderabad.

2. The Manager (P&IR), Life Insurance Corporation of India, Divisional Office, Lakhpath Building, S.D.Road, Secunderabad.

3 Two CD copies.